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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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JAVIER CABRERA, an individual; DEBORAH MILLER, an individual; CHERIE MANCINI, an individual; and the NEVADA SERVICE EMPLOYEES UNION STAFF UNION (“NSEUSU”), an unincorporated association,

Plaintiff,

vs.

SERVICE EMPLOYEES INTERNATIONAL UNION (“SEIU”), a nonprofit corporation; *et al.*

Defendants.

CASE NO.: 2:18-cv-304-RFB-DJA

**RESPONSE TO DEFENDANTS’
MOTION FOR NEW TRIAL DATE**

Plaintiff, DEBORAH MILLER, by and through MICHAEL J. MCAVOYAMAYA, Esq. and MCAVOY AMAYA & REVERO ATTORNEYS hereby files this Response in Opposition to Defendants’ Motion for New Trial Date.

This Response is based on the papers and pleadings filed herein, the memorandum of points and authorities attached hereto, and any oral argument deemed necessary at the time of hearing of this motion.

DATED: the 29th day of June, 2023

/s/ Michael J. McAvoy-Amaya
MICHAEL J. MCAVOYAMAYA, ESQ.
Nevada Bar No.: 14082
Counsel for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES

I. ARGUMENT.

A. Standard Of Review.

“A motion to extend deadlines in the Court's scheduling order must be supported by a showing of "good cause" for the extension. The good cause inquiry focuses primarily on the movant's diligence.” *DeRosa v. BLOOD SYSTEMS, INC.*, No. 2: 13-cv-0137-JCM-NJK *1 (D. Nev. Aug. 1, 2013). Federal Rule of Civil Procedure 5(b)(2)(E) provides that service of a paper is completed by “sending it by electronic means if the person consented in writing—in which event service is complete upon transmission.” Fed. R. Civ. P. 5(b)(2)(E). Local Rule 26-4 provides that all Motions to extend discovery deadlines must “be supported by a showing of good cause for the extension.” *See* LR 26-4. Further, “[a] motion or stipulation to extend a deadline set forth in a discovery plan must be received by the court no later than 21 days before the expiration of the subject deadline,” otherwise the request must also be supported by a showing of excusable neglect. *Id. see also* LR IA 6-1.

B. Defendants Have Not Established Good Cause To Extend The Date For Trial.

Defendants’ Motion for a new trial date fails to cite any law in support of the request to move the trial date in this matter, which has been awaiting trial since 2020. Defendants assert that a key witness, Luisa Blue, has some “pre-scheduled and pre-paid event” lasting an entire month from mid-September to mid-October. Defendants fail to explain what that event is, why it cannot be postponed or missed, and has failed entirely to explain why there is good cause to extend this long awaited trial date to accommodate Ms. Blue. As such, having failed to meet the good cause standard this Court should deny the motion.

CONCLUSION

Based on the foregoing, Plaintiff requests that the Motion for New Trial Date be denied.

DATED: the 29th day of June, 2023

/s/ Michael J. McAvoy-Amaya
MICHAEL J. MCAVOYAMAYA, ESQ.
Nevada Bar No.: 14082

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of June, 2023, the undersigned served the foregoing **PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR NEW TRIAL DATE** on all counsel herein by causing a true copy thereof to be filed with the Clerk of Court using the CM/ECF system, which was served via electronic transmission by the Clerk of Court pursuant to local order.

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Dated this 29th day of June, 2023.

/s/ Michael J. Mcavoyamaya

MICHAEL MCAVOYAMAYA, ESQ.